

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

KODAS et al.

Serial No.: 09/991,270

Filed: November 9, 2001

Confirmation No.: 4445

Atty. File No.: 41890-00960

For: "NICKEL POWDERS, METHODS
FOR PRODUCING POWDERS AND
DEVICES FABRICATED FROM
SAME"

) Group Art Unit: 1773

) Examiner:

) STATEMENT OF NON-INTEREST
) OF DOE
) (42 U.S.C. 2182)

<p>CERTIFICATE OF MAILING</p> <p>I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO ASSISTANT COMMISSIONER FOR PATENTS, WASHINGTON, DC 20231 ON <u>09/09/02</u>.</p> <p>MARSH FISCHMANN & BREYFOGLE LLP</p> <p>BY: <u>[Signature]</u></p>

Assistant Commissioner for Patents
Washington, D.C. 20231
Attention: LICENSING AND REVIEW

Dear Sir:

RECEIVED
SEP 19 2002
LICENSING & REVIEW

In response to the request for a statement under 42 U.S.C. 2182, having a mailing date of July 26, 2002, the undersigned declare as follows:

We, Toivo T. Kodas, a United States citizen residing at 11102 San Rafael Drive NE, Albuquerque, New Mexico 87122; Mark J. Hampden-Smith, a U.K. citizen residing at 2901 Maximillian NW, Albuquerque, New Mexico 87131; James Caruso, a United States citizen residing at 7721 Cedar Canyon Court NE, Albuquerque, New Mexico 87122; Quint H. Powell, a United States citizen residing at 14336 Grand Avenue NE, Albuquerque, New Mexico 87123; Clive D. Chandler, an Australian citizen residing at 2933 NE 14th Avenue, Portland, Oregon 97212; and Daniel J. Skamser, a United States citizen residing at 303 Snap Creek Court, Simpsonville, SC 29681, declare:

That we made and conceived the invention described and claimed in divisional Patent Application Serial No. 09/991,270 filed in the United States of America on November 9, 2001,

entitled "NICKEL POWDERS, METHODS FOR PRODUCING POWDERS AND DEVICES FABRICATED FROM SAME";

That we made and conceived this invention while employed by Nanochem Research, Inc. a New Mexico corporation and the predecessor in interest to Superior MicroPowders LLC, a New Mexico corporation, having a principal place of business at 3740 Hawkins NE, Albuquerque, New Mexico 87109;

That the invention is related to work that we are employed to perform and was made within the scope of our employment duties;

That the invention was made during working hours and with the use of facilities, equipment, materials, information and services of said Nanochem Research, Inc.;

That to the best of our knowledge and belief, the invention was not made, conceived or first actually reduced to practice under, nor is there any relationship of the invention to the performance of any work under any contract of the Department of Energy.

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date:

8/22/02

By:

James Caruso

7721 Cedar Canyon Court NE
Albuquerque, New Mexico 87122

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

KODAS et al.

Serial No.: 09/991,270

Filed: November 9, 2001

Confirmation No.: 4445

Atty. File No.: 41890-00960

For: "NICKEL POWDERS, METHODS
FOR PRODUCING POWDERS AND
DEVICES FABRICATED FROM
SAME"

Assistant Commissioner for Patents
Washington, D.C. 20231
Attn: LICENSING & REVIEW

Dear Sir:

In response to the correspondence from Licensing and Review mailed July 26, 2002 (copy attached), enclosed please find 3 Statements of Non-Interest of DOE pursuant to 42 U.S.C. 2182, which have been executed by 3 of the 6 inventors (Kodas, Hampden-Smith and Caruso). A Statement of Non-Interest of DOE has been sent to the remaining 3 inventors (Chandler, Powell and Skamser) at their last known address by first class mail, but to date no response has been received.

If the Patent Office has any questions, please call the undersigned attorney at (303) 338-0997.

) Group Art Unit: 1773

) Examiner:

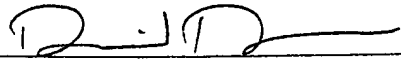
) SUBMISSION OF STATEMENT OF
) NON-INTEREST OF DOE
) (42 U.S.C. 2182)

<p>CERTIFICATE OF MAILING</p> <p>I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO ASSISTANT COMMISSIONER FOR PATENTS, WASHINGTON, DC 20231 ON <u>09/09/02</u>.</p> <p>MARSH FISCHMANN & BREYFOGLE LLP</p> <p>BY: <u>[Signature]</u></p>

RECEIVED
SEP 19 2002
LICENSING & REVIEW

Respectfully submitted,

MARSH FISCHMANN & BREYFOGLE LLP

By: 

David F. Dockery, Esq.

Registration No. 34,323

3151 South Vaughn Way, Suite 411

Aurora, Colorado 80014

(303) 338-0997

Date: September 9, 2002

MRD
9/16/02

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

AMH/52
12/29/03

In Re the Application of:

KODAS et al.

Serial No.: 09/991,270

Filed: November 9, 2001

Confirmation No.: 4445

Atty. File No.: 41890-00960

For: "NICKEL POWDERS, METHODS
FOR PRODUCING POWDERS AND
DEVICES FABRICATED FROM
SAME"

) Group Art Unit: 1773

) Examiner:

) SUPPLEMENTAL SUBMISSION OF
) STATEMENT OF
) NON-INTEREST OF DOE
) (42 U.S.C. 2182)

CERTIFICATE OF MAILING
I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO ASSISTANT COMMISSIONER FOR PATENTS, WASHINGTON, DC 20231 ON 09/10/02
MARSH FISCHMANN & BREYFOGLE LLP
BY: <i>[Signature]</i>

Assistant Commissioner for Patents
Washington, D.C. 20231
Attn: LICENSING & REVIEW

RECEIVED
SEP 19 2002
LICENSING & REVIEW

Dear Sir:

In response to the correspondence from Licensing and Review mailed July 26, 2002, Applicants submitted 3 Statements of Non-Interest of DOE pursuant to 42 U.S.C. 2182, which were executed by 3 of the 6 inventors (Kodas, Hampden-Smith and Caruso). A copy of this correspondence is attached in Appendix A.


A Statement of Non-Interest of DOE has now been received from one of the remaining 3 inventors (Skamser) and such statement is attached in Appendix B.

If the Patent Office has any questions, please call the undersigned attorney at (303) 338-0997.

ch

Respectfully submitted,

MARSH FISCHMANN & BREYFOGLE LLP

By: 

David F. Dockery, Esq.
Registration No. 34,323
3151 South Vaughn Way, Suite 411
Aurora, Colorado 80014
(303) 338-0997

Date: September 10, 2002

RECEIVED

AUG 02 2002



UNITED STATES DEPARTMENT OF COMMERCE Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

MARSH FISCHMANN & BREYFOGLE LLP

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/991,270	11/09/01	CHANDLER, ET AL.	48190-00960

MARSH FISCHMANN & BREYFOGLE LLP
SUITE 411
3151 S. VAUGHN WAY
AURORA, CO 80014

EXAMINER	
ART UNIT	PAPER NUMBER
	3

DATE MAILED:

26 JUL 2002

IF NO RESPONSE TO THIS NOTICE IS RECEIVED WITHIN FORTY-FIVE DAYS, A FORMAL REQUIREMENT WILL BE ISSUED

The subject matter of this application appears to:

☒ be "useful in the production or utilization of special nuclear material or atomic energy" as recited in 42 U.S.C. 2182 (Department of Energy (DOE)).

☐ "have significant utility in the conduct of aeronautical and space activities" as recited in 42 U.S.C. 2457 (National Aeronautics and Space Administration (NASA)).

Accordingly, no patent can issue on this application unless applicant(s) file a statement (under oath or in the form of a declaration as provided by 37 CFR 1.68) setting forth (1) the full facts concerning the circumstances under which the invention was made and conceived and (2) the relationship (if any) of the invention to the performance of any work under any contract or other arrangement with the Agency(ies) noted above. On the reverse side of this form is an example of an acceptable format for this statement. The language appearing in paragraphs III and/or IV of the example *must* appear if applicant is attempting to establish that no relationship (under item 2 above) exists.

If the invention disclosed in this application was developed under a contract, grant or cooperative agreement between the Agency indicated above and a person, small business or non-profit organization and rights to the invention have been determined by specific reference to 35 U.S.C. 202 in the contract, grant or cooperative agreement, then applicant need not submit the statement described above. Instead, applicant may file a verified statement (under oath or in the form of a declaration, 37 CFR 1.68) setting forth the information required by 35 U.S.C. 202(c)(6).

IF NO STATEMENT HAS BEEN RECEIVED WITHIN FORTY-FIVE DAYS OF THE MAIL DATE INDICATED ABOVE, a formal requirement for statement will then be issued. No provision is made for extension of the statutory thirty-day period for response to the formal requirement and the penalty for failure to file an acceptable and timely statement is abandonment of the application. Therefore, applicants are strongly encouraged to submit a statement at this time in order to avoid the issuance of a formal requirement.

IT IS IMPORTANT TO NOTE that the statement must accurately represent the property rights situation of the claimed invention if and when the application is found allowable. Thus, if during prosecution before the examiner, the claimed invention is so altered or the property rights situation so changed as to impact the accuracy of a statement submitted earlier, a supplemental statement must be filed. Failure to submit such additional information where appropriate may be considered a false representation of material facts and render the patent owner vulnerable to loss of patent rights and other sanctions as set forth in the statutes. The PTO will not review allowed applications for this possibility. The responsibility for complying with the statutes rests with the applicants.

Any questions regarding this requirement should be directed to Licensing and Review at ~~202-506-4407~~

(703)305-0241

**PLEASE DIRECT ALL COMMUNICATIONS RELATING TO THIS MATTER TO THE
ATTENTION OF LICENSING AND REVIEW**